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Letter dated 11 December 2001 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

With reference to the letter dated 5 November 2001 of Mr. Jeremy Greenstock, the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland (A/56/612-S/2001/1059), as well as to my letter of 5 October 2001 (A/56/451-S/2001/953), I wish to bring to your kind attention the following:

First, let me reiterate that the Greek Cypriot Administration's application to join the European Union (EU) is a breach of the relevant provision of the 1960 Treaty of Guarantee which stipulates that Cyprus cannot participate, "in whole or in part, in any political or economic union with any State whatsoever". Such application constitutes a breach of the Treaty of Guarantee, as well as the legal and political state of affairs established by the 1960 Agreements and the international commitments contained therein.

In Cyprus, there are two distinct sovereign national peoples with their respective States and, since 1963, there is no legitimate authority that represents both parties, which were the co-founders of the 1960 partnership Republic. Therefore, the application for membership in the European Union, which has been made unilaterally by the Greek Cypriot administration on behalf of the whole island, is legally null and void.

Having carefully considered the above-mentioned letter of Mr. Greenstock, the Government of Turkey, as a party to the 1960 Cyprus Treaty of Guarantee, finds it impossible to accept the refusal of the United Kingdom to acknowledge the effects of the clear words of the Treaty in relation to the obligations of Cyprus.

The United Kingdom has chosen to dismiss in one paragraph the carefully researched written Opinion of one of the United Kingdom's most distinguished international lawyers, Professor Maurice Mendelson, who has dealt point by point with the arguments to the contrary advanced in a legal Opinion obtained earlier by the Greek Cypriot Administration, one of which is repeated in the United Kingdom's letter.

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By virtue of article 1 of the Treaty, the obligation of Cyprus is "not to participate, in whole or in part, in any political or economic union with any State whatsoever". It is asserted by the United Kingdom that EU membership does not constitute "union with another State". It is true that the European Union is not a State per se, but when an applicant joins EU it does not enter into a union with EU itself, but with each of the member States which constitute the European Union.

Clearly, if Cyprus were to join the European Union she would be participating in both a political and an economic union not only with one State, but with each of the 15 member States. It may be argued that the purpose of article 1 was solely to prevent union with Greece or Turkey, but the article is not drawn as narrowly as that, and in fact refers to any State whatsoever. Even if it were, Greece is one of those 15 States of the European Union.

It may also be argued that since members of the European Union retain their sovereignty, membership of EU does not constitute participation in a union within the meaning of the 1960 Treaty. This is not however sustainable, because the Treaty prohibits union "in whole or in part". The Treaty also prohibits political or economic union, and cannot therefore be taken to apply only to total political unions.

By article 2 of the Treaty, the United Kingdom and Greece bound themselves "to prohibit, so far as concerns them, any activity aimed at promoting, directly or indirectly ... union of the Republic of Cyprus with any other State ...".

The international legal obligations which flow from articles 1 and 2 of the Treaty can be waived only with the consent of all parties to the Treaty, including Turkey. The Government of Turkey is of the view that any pretext aimed at disregarding the restrictions imposed by the Treaty cannot deprive it of its legal force.

Moreover, and quite apart from the provisions of this Treaty, Cyprus is the home of the Turkish Cypriots as well as the Greek Cypriots, and it would be wrong for one of the two peoples to be allowed to take the island into the European Union without the consent of the other. Holding out to the Greek Cypriots the prospect of membership without an internal settlement has made it almost impossible for the two peoples of Cyprus to reach a settlement.

Finally, until a mutually acceptable political solution is freely reached between the two parties in Cyprus, neither side may undertake any action which would have international legal and political consequences for the whole of the island. Therefore, in this context, the membership in the European Union should be taken up within the terms of a political settlement and the balance established between Turkey and Greece with regard to Cyprus by the 1960 Treaties has to be maintained in every respect.

I should be grateful if the text of the present letter would be circulated as a document of the General Assembly, under agenda item 62, and of the Security Council.

(*Signed*) Ümit **Pamir**
Ambassador
Permanent Representative